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THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 97,022-N2)

In application of:)
Rickik N. Ghosh et al.)
Serial No. 09/716,732)
Filed: November 20, 2000)
For: A System for Cell-Based Screening)
)

Examiner: Lisa V. Cook

Group Art Unit: 1641

**RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT
APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID
SEQUENCE DISCLOSURES**

Box Response
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Please consider the following remarks in response to the Notice to Comply mailed March 13, 2002.

The Examiner has asserted that a sequence listing is required in the above referenced application. The Applicants respectfully traverse this assertion. A thorough review by the Applicants has revealed no disclosed sequences anywhere within the application, and as such the Applicants hold that no sequence listing is required.

The Examiner has referred to two examples within the application as the basis for the sequence listing requirement. The first example is on page 63, lines 24-26, "A DNA construct has been made." While it is true that such a construct would inherently have a nucleotide sequence, 37 C.F.R. 1.821(b) clearly states "Patent applications which contain disclosures of nucleotide and/or amino acid sequences, in accordance with the definition in paragraph (a) of

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312-913-0001

this section, shall, with regard to the manner in which the nucleotide and/or amino acid sequences are presented and described, conform exclusively to the requirements of §§1.821 through 1.825" (emphasis added). A sequence listing is required in instances in which a nucleotide or amino acid sequence has been disclosed within an application, as opposed to situations in which merely a polynucleotide or polypeptide has been recited. No such sequence disclosure has been made in the case of the DNA construct referred to on page 63, and hence no sequence listing is required.

The Examiner also refers to the recitation "VSVG protein chimera molecule constructs" on page 90. As a point of clarification, "VSVG" does not refer to an amino acid sequence, but rather is an acronym for "Vesicular Stomatitis Virus G" protein, as can be ascertained by the passage in which "VSVG" is recited. Furthermore, the sequences of the "VSVG protein chimera molecule constructs" are not disclosed within the specification, and therefore no sequence listing is required as discussed above.

Hence the Applicants respectfully request withdraw of the sequence listing requirement.

If there are any questions or comments regarding this Response, the Examiner is encouraged to contact the undersigned attorney at (312) 913-2106.

Respectfully Submitted,

By:

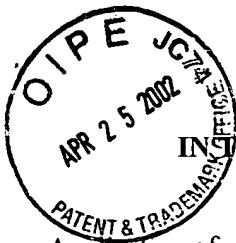


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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 97,022-N2)

In re Application of:

Ghosh, et al.

Serial No.: 09/716,732

Filed: November 20, 2000

For: A System for Cell-Based Screening

) Art Unit: 1641

) Examiner: Cook, L.

Box: RESPONSE

Commissioner for Patents
Washington, D.C. 20231

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TRANSMITTAL LETTER

Sir:

1. We are transmitting herewith the attached papers for the above-identified patent application:

- Response to Notice of Comply mailed March 13, 2002 (2 sheets);
- Copy of the Notice to Comply (1 sheet); and
- Petition for 1-month extension of time (1 sheet); and
- Return Receipt Postcard.

2. With respect to fees:

- A check in the amount of \$55.00 is enclosed for the 1-month extension of time.

3. **GENERAL AUTHORIZATION TO CHARGE OR CREDIT FEES:** Please charge any additional fees or credit overpayment to Deposit Account No. 13-2490. A duplicate copy of this sheet is enclosed.

4. **CERTIFICATE OF MAILING BY "EXPRESS MAIL" UNDER 37 CFR § 1.10:** The undersigned hereby certifies that this Transmittal Letter and the paper, as described in paragraph 1 hereinabove, are being deposited with the United States Postal Service with sufficient postage as "Express Mail Post Office to Addressee" in an envelope addressed to: Commissioner for Patents, Box Response, Washington, D.C. 20231, on this 25th day of April, 2002. Express Mail No. EL904265688US.

By:

David S. Harper
Reg. No. 42,636

**Notice to Comply**

Application No.

09/716,732

Examiner

Lisa V. Cook

Applicant(s)

Ghosh et al.

Art Unit

1641

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APR 30 2002

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS
CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE
DISCLOSURES**

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- 7. Other:

Applicant Must Provide:

- An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

PatentIn Software Program Support

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